

**STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER**

In the Matter of

Business Insurance Management Inc.,

and

Dennis V. Bey

Licensees.

Order No. 14-0209

WAOIC No. 725467

FEIN 26-2559199

WAOIC No. 743994

NPN 13823938

CONSENT ORDER SETTING
CONDITIONS FOR
PROBATIONARY LICENSES
AND IMPOSING A FINE

This Consent Order is entered into by the Insurance Commissioner of the state of Washington, acting pursuant to the authority set forth in RCW 48.02.080 and RCW 48.17.530(1), and Licensees Dennis V. Bey and Business Insurance Management, Inc.

BASIS:

1. Business Insurance Management, Inc. (Hereinafter, "BIM" or "the Agency") has been a licensed insurance producer since May 22, 2008. The Designated Responsible Licensed Person ("DRLP") for the Agency is Dennis V. Bey. Mr. Bey is 25 years old and has been a licensed Washington insurance producer since May 1, 2009. (BIM and Mr. Bey are jointly referred to hereinafter as "Licensees.")

2. The Agency was selected for a financial examination in 2013. The examination covered the period of January 1, 2013, through December 31, 2013. The examination commenced on April 21, 2014.

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PO Box 40255
Olympia, WA 98504-0255

3. During that first financial exam, the Insurance Commissioner found that the Agency had not established and maintained records and an appropriate accounting system for all premiums and return premiums received. The recordkeeping system must provide an audit trail so that details underlying the summary data, such as invoices, checks, and statements, can be identified and made available upon request. Commingling of the separate premium account and the operating account was also discovered.

4. The Agency was instructed to comply with RCW 48.17.470, RCW 48.17.480, RCW 48.17.600 and WAC 284-12-080(8) & (9) by: Establishing records and an appropriate accounting system for all premiums and return premiums received by the Agency going back to January 1, 2013. The recordkeeping system, whether manual or electronic must provide an audit trail so that details underlying the summary data, such as invoices, checks, and statements, can be identified and made available on request. The Agency was told to correct any shortage in the premium account to permit implementation of an appropriate accounting system and proper reconciliation of the accounts. The Agency was told to promptly pay out the correct amounts constituting premiums, including unearned commission, to the entitled party. The Agency was to rename the premium account to distinguish it from the operating account. Lastly, the Agency was instructed to reconcile the separate premium account every month and maintain the documentation for five years.

5. The Insurance Commissioner conducted a second financial examination of BIM, covering the same period of time as the previous examination, to determine if the Agency had implemented the instructions given in the prior examination report.

6. The Insurance Commissioner's findings from this second exam are set forth in a document dated October 20, 2014, and titled "Financial Re-Examination of Business Insurance Management, Inc. (Hereinafter, "the Second Exam Report.")

7. Licensees had not followed the Insurance Commissioner's previous instruction. The Agency had not established an accounting system for premium and return premium. As a result, the Agency had at least eleven examples of having deposited the same premium twice. The Agency was told to again correct any shortage in the premium account and reconcile accounts monthly. Although the Agency had planned to set up a new agency management

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system with an integrated accounting system, it had not yet completed it. Funds were still commingled. Unresolved return premiums were still discovered.

8. The Agency was instructed to comply with RCW 48.17.480(2), RCW 48.17.600(1), RCW 48.17.470, and WAC 284-12-080(8) by: Reconciling the separate premium bank account every month within a few days after receipt of the bank statement. The reconciliation documentation and the bank statements should be maintained and available for examination for five years as required by RCW 48.17.470(2).

9. A properly prepared reconciliation compares two independent sets of data (Agency financial records to bank statement activity), identifies variances between the data (including bank charges and fees), and verifies that timing differences resolve (deposits in transit and outstanding sweeps or checks not clearing the account by the end of the month). The documented reconciliation will assist the Agency to demonstrate that all funds received constituting premium and/or return premium are conserved and maintained in the separate premium account intact, so that they are available to remit to the party entitled to the funds.

10. By failing to retain records of all transactions consummated under their licenses as customary and reasonably required by the commissioner, and to keep such records available and open to the inspection of the commissioner during the five years thereafter, Licensees violated RCW 48.17.470.

11. By failing to receive all premiums and return premiums in their fiduciary capacity, and promptly accounting for and paying them to the party entitled thereto, and by diverting or appropriating funds received in a fiduciary capacity for their own use, Licensees violated RCW 48.17.480.

12. By failing to account for and maintain in a separate account all funds representing premiums or return premiums received, Licensees violated RCW 48.17.600(1).

13. By failing to handle funds according to the requirements of WAC 284-12-080, and to establish and maintain an accounting system as required by that regulation, Licensees violated WAC 284-12-080.

14. Under RCW 48.17.530(1)(b, d, and h), the Insurance Commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license, or may levy a civil penalty or any combination of actions, for any of the following:

- violating any insurance laws or any rule or order of the commissioner; or
- improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business; or
- demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere.

15. Mr. Bey is responsible for each of these violations, as the DRLP for the Agency under RCW 48.17.090(3)(b).

16. The above continuing violations by BIM authorize the Insurance Commissioner to convert the insurance producer's licenses of both the Agency and Mr. Bey, as DRLP, to probationary licenses until they have demonstrated compliance, as defined below.

CONSENT TO ORDER:

The Insurance Commissioner of the state of Washington and the Licensees agree that the best interest of the public will be served by entering into this Consent Order.

NOW, THEREFORE, the Licensees consent to the following in consideration of their desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle this matter in consideration of the Licensees' payment of a fine, and upon such terms and conditions as are set forth below:

1. The Licensees acknowledge their duty to comply fully with the applicable laws of the state of Washington.
2. The Licensees consent to the entry of this Consent Order, waive any and all hearing rights, and further administrative or judicial challenges to this Consent Order.
3. By agreement of the parties, the Insurance Commissioner will impose a fine of \$500 (Five Hundred Dollars) to be paid by the Licensees within thirty days of the entry of this Consent Order.

4. Licensees understand and agree to pay a fine of \$500 (Five Hundred Dollars), liability for which is joint and several, and further agree to convert their Insurance Producer's licenses to probationary licenses under RCW 48.17.530 on the conditions set forth below:

- a) Licensees agree that beginning on the 25th of the first month following entry of this Consent Order, Licensees must provide the Insurance Commissioner by email the following financial and other records covering insurance transactions during the previous month by the 25th of the following month:
 - (i) Copies of the Agency's monthly bank reconciliation;
 - (ii) Copies of the bank statements for the Agency's separate and operating accounts;
 - (iii) Copies of itemized bank deposit slips;
 - (iv) Copies of the check registers for the Agency's separate and operating accounts;
 - (v) Copies of commission statements from insurance companies for all agency business transacted through the separate premium account for the month;
 - (vi) Copies of the separate premium account sweep report from all insurers with transaction activity for the month;
 - (vii) Copies of the account current billing statements from other brokers;
 - (viii) Copies of disclosure of any agency/producer fees being charged;
 - (ix) Copies of the general ledger activity for both the separate and operating accounts and fee income (fee income only if applicable); and
 - (x) Copy of the Licensees' Transaction Receipt report for the month.
- b) Licensees agree that the items listed in paragraph 1.a. above will be sent monthly in hard copy via U.S. mail or other means acceptable to the Insurance Commissioner, addressed to the Supervising Financial Examiner at:

Mary Tunis
Office of the Insurance Commissioner
Insurance 5000 Building
PO Box 40257
Olympia, WA 98504-0257
MaryT@oic.wa.gov

- c) Licensees agree to remain current at all times with the recordkeeping requirements set forth in the Washington Insurance Code.
- d) Licensees agree to provide the records identified in paragraph 1.a. above monthly for 24 months following entry of the Consent Order in this matter. At the discretion of the Supervising Financial Examiner, if the requested records are provided by the 25th of each month and comply fully with the requirements of paragraph 1.a. above, the Supervising Financial Examiner may release the Licensees from the requirement for further monthly financial record submissions at any time following the end of the first twelve month period.

5. Licensees agree that for the period of 24 months from the entry of this Consent Order, if any administrative action is taken against any license either Licensee holds with any state, any action taken against either Licensee by FINRA, or if either Licensee is convicted of any criminal violation (other than misdemeanor traffic violations), both Licensees' probationary Washington Insurance Producer's license will be revoked.

6. Licensees agree that under the terms of their probationary licenses, if either Licensee fails to provide proof of appropriate recordkeeping as agreed, both Licensees' probationary Washington Insurance Producer's license will be revoked at the discretion of the Insurance Commissioner. Licensees will be eligible to obtain full, non-probationary licenses upon successful completion of the probationary period, or earlier at the Insurance Commissioner's discretion.

7. Licensees agree that any future failure to comply with the statutes and regulations governing the insurance and securities industries, or future conviction of a crime other than misdemeanor traffic violations, will constitute grounds for any further penalties which may be imposed in direct response to such further violation, in addition to the revocation of both probationary Washington Insurance Producer's licenses.

8. Licensees agree that any failure to timely pay the fine of \$500 (Five Hundred Dollars) shall constitute grounds for revocation of both Licensees' Washington Insurance Producer's licenses, and shall result in the recovery of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the state of Washington.

9. This Consent Order and the violations set forth herein constitute admissible evidence that may be considered in any future action by the Insurance Commissioner involving the Licensees. However, the fact of this Consent Order, and any provision, finding or conclusion contained herein does not, and is not intended to, determine any factual or legal issues or have any preclusive or collateral estoppel effects in any lawsuit by any party other than the Insurance Commissioner.

EXECUTED this 17 day of November, 2014.

BUSINESS INSURANCE MANAGEMENT, INC.

Dennis V. Bey

By: Dennis V. Bey, as DRLP for Business Insurance Management, Inc.

AGREED ORDER

Pursuant to the foregoing factual Basis and Consent to Order, the Insurance Commissioner of the state of Washington hereby Orders as follows:

1. Licensees shall comply with the conditions set forth above.
2. Licensees shall pay a fine in the amount of \$500 (Five Hundred Dollars).
3. Licensees' failure to pay the fine within thirty days of the execution of this Consent Order shall result in the revocation of both Licensees' Washington Insurance Producer's license, and in the recovery of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the state of Washington.
4. Upon execution by the Insurance Commissioner of this Consent Order, both Licensees' Washington Insurance Producer's license will be converted to a probationary license.

5. Licensees shall comply with and carry out all applicable laws governing the insurance and securities industries in all states in which they do business, and will also comply with all criminal laws.

6. Licensees' failure to comply with the terms of their probationary licensure shall result in the revocation of their Washington Insurance Producer's license and in any other enforcement action which may be taken as a result of any further violation.

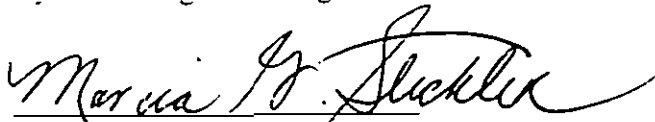
7. This Consent Order and the violations set forth herein constitute admissible evidence that may be considered in any future action by the Insurance Commissioner involving the Licensees. However, the fact of this Consent Order, and any provision, finding or conclusion contained herein does not, and is not intended to, determine any factual or legal issues or have any preclusive or collateral estoppel effects in any lawsuit by any party other than the Insurance Commissioner.

Executed this 20th day of November 2014.



MIKE KREIDLER
Insurance Commissioner

By and through his designee



MARCIA G. STICKLER
Insurance Enforcement Specialist
Legal Affairs Division